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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------------|------------------|
| 10/516,702 | 12/02/2004 | Andreas A Popp | 29827/40663 | 6743 |
| 4743 7590 02/12/2008 MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606 | | | EXAMINER CHEUNG, WILLIAM K | |
| | | | ART UNIT | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/516,702

Applicant(s)

POPP ET AL.

Examiner

WILLIAM K. CHEUNG

Art Unit

1796

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1,4-7,10-16,18,21-23,26,27,29,30 and 32-34.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/William K Cheung/
Primary Examiner, Art Unit 1796

Continuation of 11, does NOT place the application in condition for allowance because: Applicants argue that the broad range teachings in Matsui et al. do not have sufficient specificity to set forth a 102b rejection. However, the examiner disagrees because every point disclosed in the range taught in Matsui et al. is adequate for a 102b rejection. Regarding the argued unexpected results, applicants must recognize that the submission of unexpected results is not effective in overcoming a 102 based rejection. Regarding "postcrosslinking", Barthold et al. (col. 7, line 37-50; col. 15, line 41-54) clearly teach a postcrosslinking process. Regarding "drying", Barthold et al. (col. 8, line 55-61; col. 15, line 55-65) clearly disclose a method of rapid removal of water (drying). Regarding applicants' argument that Barthold et al. only teach blanketing with nitrogen, however, applicants fail to recognize that the method disclosed in Barthold et al. still involve passing an inert gas on or over the reactants, which can also function to strip solvents. Regarding the argued "oxygen containing gas", applicants must recognize that the recitation does not specify the location of the oxygen in the gas. Since the polymerization mixture contain methacrylic acid (an oxygen containing compound) that can be stripped or purged by the disclosed nitrogen gas, the examiner has a reasonable basis to believe that the nitrogen gas of Barthold et al. contain an oxygen containing compound (methacrylic acid). Regarding the molar excess of methacrylic acid to alkoxylated glycol of 3.15:1, Barthold et al. (col 4, line 65) clearly disclose that the methacrylic acid to glycol ranges from 1:1 to 3:1 for n=3. Since Barthold et al. (col. 4, line 67 to col. 5, line 1) clearly indicate that it is not desirable to have gelling occurred, it would not be difficult to one of ordinary skill in art to recognize and to use an excessive amount of methacrylic acid to prevent the gelling caused by the multifunctional alcohol. Therefore, in view of the reasons set forth above, the rejection of claims 1,4-7, 10-16,18,21-23,26,27,29,30 and 32-34 is maintained.